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June 4, 2012

The Honorable Joseph C. Spero
United States District Court
Northern District of California
Courtroom G - 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Via ECF and Federal Express

Re: *Art of Living Foundation v. Does, Case 10-cv 5022 LHK*
Re: Settlement Conference, June 12, 2012

Dear Judge Spero:

This case is scheduled for a settlement conference before Your Honor on June 12, 2012. I spoke briefly with your clerk, Ms. McClure, to clarify or confirm certain matters regarding the mechanics of that settlement conference and she indicated that I should raise them in writing, via this letter.

This case is unusual in that my clients, Doe Defendants “Skywalker” and “Klim” appeared pseudonymously in this case without revealing their identities, and the issue of whether Defendants have a First Amendment right to preserve their anonymity has been hotly contested in this case. In its Order of November 9, 2011 (DE 129), this Court protected the anonymity of Defendants from discovery, at least at that stage in the proceedings.

As recited in the stipulation and order whereby this matter was referred to Your Honor for settlement conference, the anonymity of Defendants posed an obstacle to the parties being able to conduct ADR through this Court’s ADR department. Stipulation and Order of March 3, 2012 [DE 144] at 1:23. Thus by agreement of the parties (and at the suggestion of Judge Koh), this matter was referred to Your Honor for settlement conference. *Id.*

By Judge Koh’s order of referral, “[u]nless and until the Court issues a ruling modifying the Order of November 9, 2012, Defendants are permitted to appear at the conference telephonically and without disclosing their identities.” *Id.*, ¶ 3, *see also id.* at 1:14-16.

The Court has continued to protect Defendants’ First Amendment right to anonymity. By this Court’s Order of May 1, 2012 (DE 162), all causes of action against Klim were dismissed, and only a single cause of action remains against Skywalker. By this Court’s Order of May 9, 2012 (DE 165), the Court denied Plaintiff’s renewed request to discover Skywalker’s identity.¹

¹ The sole remaining cause of action against Skywalker is one as to which Skywalker has an immediate right of appeal, as the denial of a motion to strike under California Code of Civil

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Thus Defendants respectfully request that the settlement conference be conducted in a manner that would fully respect their First Amendment right to anonymity, and (per DE 144) permit them to attend the settlement conference telephonically. (Klim and Skywalker respectfully point out that they do not have the resources or ability to travel to the United States for the settlement conference and that they are being represented *pro bono*).

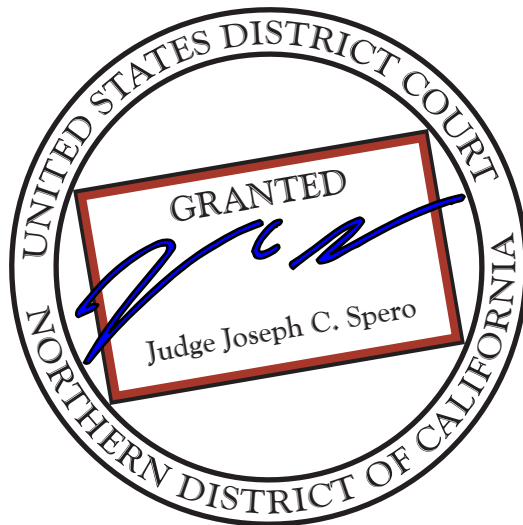
More specifically and practically speaking, Defendants would propose that, insofar as the settlement conference is likely to involve two separate rooms in which Your Honor may confer with each party separately, that Defendants be given a conference room to which they may be connected via telephonic conference call. This could potentially be done via standard telephonic hookup. It is also possible that I could arrange for a teleconference to be conducted through my laptop via Skype call. (I will need to check the availability of an internet connection of sufficient speed to do that).

Assuming the foregoing is acceptable to Your Honor (and I note that Plaintiff previously stipulated to telephonic attendance by my clients), I would ask that Your Honor have your clerk or other Court personnel contact me regarding making appropriate arrangements with my clients.

Respectfully submitted,

/s/
Joshua Koltun

Dated: June 6, 2012



Procedure section 425.16 is an appealable order. Skywalker filed his notice of appeal on May 29, 2012 (DE 169). Thus this Court has been divested of jurisdiction of the case until the appeal is decided. Nevertheless, assuming no waiver of his rights is involved, including his First Amendment right to preserve his anonymity, Skywalker is willing to voluntarily participate in the scheduled settlement conference. Similarly, Klim, against whom all causes of action have been dismissed, is also so willing to voluntarily participate.